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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

16 TARCILO CALDERA,)

17 Defendant.)
18

No. 3-05-70302 EDL

~~PROPOSED~~ ORDER AND STIPULATION
WAIVING TIME UNDER RULE 5.1 AND
EXCLUDING TIME FROM JULY 15, 2005
TO JULY 29, 2005 FROM THE SPEEDY
TRIAL ACT CALCULATION
(18 U.S.C. § 3161(h)(8)(A))

19 The parties appeared before the Court on July 15, 2005. With the agreement of the parties,
20 and with the consent of the defendant, the Court enters this order (1) scheduling a new
21 preliminary hearing/arraignment date of July 29, 2005 at 9:30 a.m., before the Honorable Edward
22 M.Chen; (2) documenting the defendant's waiver of time limits under Federal Rule of Criminal
23 Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C.
24 § 3161(h)(8)(A), from July 15, 2005 to July 29, 2005. The parties agreed, and the Court found
25 and held, as follows:

26 1. The defendant waived the time limits for a preliminary hearing under Federal Rule of
27 Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny
28 both defense and government counsel reasonable time necessary for effective preparation, taking

STIPULATION AND ORDER
3-05-70302 EDL

FILED
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RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 into account the exercise of due diligence, and would deny the defendant continuity of counsel.

2 2. Counsel for the defense believes that postponing the preliminary hearing is in his
3 client's best interest, and that it is not in his client's interest for the United States to indict the
4 case before the July 29, 2005 preliminary hearing date. The parties are investigating a pre-
5 indictment disposition of the case.

6 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to
7 grant the requested continuance would unreasonably deny both government and defense counsel
8 reasonable time necessary for effective preparation, taking into account the exercise of due
9 diligence, and would deny the defendant and the government continuity of counsel.

10 4. Given these circumstances, the Court found that the ends of justice served by
11 excluding the period from July 15, 2005 to July 29, 2005, outweigh the best interest of the public
12 and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

13 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
14 from July 15, 2005 to July 29, 2005, be excluded from Speedy Trial Act calculations under 18
15 U.S.C. § 3161(h)(8)(A) & (B)(iv).

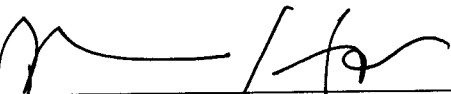
16 4. The Court scheduled a new preliminary hearing/arraignment date of July 29, 2005, at
17 9:30 a.m., before the Honorable Edward M. Chen.

18 IT IS SO STIPULATED.

19
20 DATED: 7/15/05



21 TRACIE L. BROWN
22 Assistant United States Attorney

23 DATED: 7/15/05


24 DAVID FERMINO (MADE BLANK)
25 Attorney for TARCILLO CALDERA

26 IT IS SO ORDERED.

27 DATED: 7/15/05


28 HON. EDWARD M. CHEN
United States Magistrate Judge